

Adopted	Rejected
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## COMMITTEE REPORT

YES:	23
NO:	0

### MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred House Bill 1245, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 6-3.1-29 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 JANUARY 1, 2006]:
- 5 **Chapter 29. Coal Gasification Technology Investment Tax**
- 6 **Credit**
- 7 **Sec. 1. As used in this chapter, "commission" refers to the**
- 8 **Indiana utility regulatory commission.**
- 9 **Sec. 2. As used in this chapter, "corporation" refers to the**
- 10 **Indiana economic development corporation established by**
- 11 **IC 5-28-3-1.**
- 12 **Sec. 3. As used in this chapter, "department" refers to the**
- 13 **department of state revenue.**
- 14 **Sec. 4. As used in this chapter, "Indiana coal" has the meaning**

1 set forth in IC 4-4-30-4.

2 Sec. 5. As used in this chapter, "integrated coal gasification  
3 powerplant" means a facility that satisfies all of the following  
4 requirements:

5 (1) The facility is a newly constructed energy generating plant.

6 (2) The facility converts coal into synthesis gas that can be  
7 used as a fuel to generate energy.

8 (3) The facility uses the synthesis gas as a fuel to generate  
9 electric energy.

10 (4) The facility is dedicated primarily to serving Indiana retail  
11 electric utility consumers.

12 Sec. 6. As used in this chapter, "pass through entity" means:

13 (1) a corporation that is exempt from the adjusted gross  
14 income tax under IC 6-3-2-2.8(2);

15 (2) a partnership;

16 (3) a limited liability company; or

17 (4) a limited liability partnership.

18 Sec. 7. As used in this chapter, "qualified investment" means a  
19 taxpayer's expenditures for:

20 (1) all real and tangible personal property incorporated in and  
21 used as part of an integrated coal gasification powerplant; and

22 (2) transmission equipment and other real and personal  
23 property located at the site of an integrated coal gasification  
24 powerplant that is employed specifically to serve the  
25 integrated coal gasification powerplant.

26 Sec. 8. As used in this chapter, "state tax liability" means a  
27 taxpayer's total tax liability that is incurred under:

28 (1) IC 6-2.3 (the utility receipts tax);

29 (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

30 (3) IC 6-5.5 (the financial institutions tax); and

31 (4) IC 27-1-18-2 (the insurance premiums tax);

32 as computed after the application of the credits that under  
33 IC 6-3.1-1-2 are to be applied before the credit provided by this  
34 chapter.

35 Sec. 9. As used in this chapter, "taxpayer" means a person,  
36 corporation, partnership, or other entity that has any state tax  
37 liability.

38 Sec. 10. A taxpayer that:

(1) is awarded a tax credit under this chapter by the corporation; and

(2) complies with the conditions set forth in this chapter and the agreement entered into by the corporation and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability for a taxable year in which the taxpayer places into service an integrated coal gasification powerplant and for the taxable years provided in section 12 of this chapter.

Sec. 11. Subject to section 12 of this chapter, the amount of the credit to which a taxpayer is entitled is equal to the sum of the following:

(1) Ten percent (10%) of the taxpayer's qualified investment for the first five hundred million dollars (\$500,000,000) invested.

(2) Five percent (5%) of the amount of the taxpayer's qualified investment that exceeds five hundred million dollars (\$500,000,000).

Sec. 12. (a) A credit awarded under section 11 of this chapter must be taken in ten (10) annual installments, beginning with the year in which the taxpayer places into service an integrated coal gasification powerplant.

(b) The amount of an annual installment of the credit awarded under section 11 of this chapter is equal to the lesser of:

(1) the credit amount determined under section 11 of this chapter, divided by ten (10); or

(2) the greater of:

(A) the taxpayer's total state tax liability for the taxable year, multiplied by twenty-five percent (25%); or

(B) the taxpayer's liability for the utility receipts tax imposed under IC 6-2.3 for the taxable year.

(c) If the credit allowed by this chapter is available to a member of an affiliated group of corporations filing a consolidated return under IC 6-2.3-6-5 or IC 6-3-4-14, the credit shall be applied against the state tax liability of the affiliated group.

Sec. 13. A person that proposes to place a new integrated coal gasification powerplant into service may apply to the corporation before the taxpayer makes the qualified investment to enter into an

1 agreement for a tax credit under this chapter. The corporation  
2 shall prescribe the form of the application.

3 Sec. 14. After receipt of an application, the corporation may  
4 enter into an agreement with the applicant for a credit under this  
5 chapter if the corporation determines that the taxpayer's proposed  
6 investment satisfies the requirements of this chapter.

7 Sec. 15. (a) The corporation shall enter into an agreement with  
8 an applicant that is awarded a credit under this chapter. The  
9 agreement must include all the following:

10 (1) A detailed description of the project that is the subject of  
11 the agreement.

12 (2) The first taxable year for which the credit may be claimed.

13 (3) The maximum tax credit amount that will be allowed for  
14 each taxable year.

15 (4) A requirement that the taxpayer shall maintain operations  
16 at the project location for at least ten (10) years during the  
17 term that the tax credit is available.

18 (5) A specific method for determining the number of new  
19 employees employed during a taxable year who are  
20 performing jobs not previously performed by an employee.

21 (6) A requirement that the taxpayer shall annually report to  
22 the corporation the number of new employees who are  
23 performing jobs not previously performed by an employee,  
24 the average wage of the new employees, and the average wage  
25 of all employees at the location where the qualified investment  
26 is made.

27 (7) A requirement that the corporation is authorized to verify  
28 with the appropriate state agencies the amounts reported  
29 under subdivision (6), and that after doing so shall issue a  
30 certificate to the taxpayer stating that the amounts have been  
31 verified.

32 (8) A requirement that the taxpayer shall pay an average wage  
33 to its employees at the integrated coal gasification powerplant,  
34 other than highly compensated employees, in each taxable  
35 year that a tax credit is available that equals at least one  
36 hundred fifty percent (150%) of the average county wage in  
37 the county in which the integrated coal gasification  
38 powerplant is located.

(9) A requirement that the taxpayer will maintain at the location where the qualified investment is made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified investment was made.

(10) A requirement that the taxpayer shall provide written notification to the corporation not later than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(11) A requirement that the taxpayer shall use Indiana coal at the taxpayer's integrated coal gasification powerplant.

(12) A requirement that the taxpayer obtain from the commission a determination under IC 8-1-8.5-2 that public convenience and necessity require, or will require, the construction of the taxpayer's integrated coal gasification powerplant.

(b) A taxpayer must comply with the terms of the agreement described in subsection (a) to receive an annual installment of the tax credit awarded under this chapter. The corporation shall annually determine whether the taxpayer is in compliance with the agreement. If the corporation determines that the taxpayer is in compliance, the corporation shall issue a certificate of compliance to the taxpayer.

Sec. 16. If a pass through entity does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 17. To receive the credit awarded by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department a copy of the commission's determination required under section 15 of this chapter, a copy of

1       **the taxpayer's certificate of compliance issued under section 15 of**  
2       **this chapter, and all information that the department determines**  
3       **is necessary for the calculation of the credit provided by this**  
4       **chapter.**

5       SECTION 2. [EFFECTIVE JANUARY 1, 2006] **IC 6-3.1-29, as**  
6       **added by this act, applies to taxable years beginning after**  
7       **December 31, 2005.**

(Reference is to HB 1245 as introduced.)

**and when so amended that said bill do pass.**

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Representative Espich